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**INFORMATION REGARDING NEW YORK'S PROHIBITION
OF USE OF FEDERAL EXEMPTIONS**

The State of New York has exercised the option granted it by Congress in 11 U.S.C. Sec. 522 (b)(1). Effective as to petitions filed on and after September 1, 1982, the exemptions provided by 11 U.S.C. Sec. 522 (d) are no longer available (new Sec. 284 of the Debtor and Creditor Law).

A debtor is now limited to the exemptions set forth in CPLR 5205 and 5206, Insurance Law Sec. 166, and those set forth in new Sec. 282 of the Debtor and Creditor Law discussed below.

Also of extreme importance is the fact that new Sec. 283 of the Debtor and Creditor Law sets certain aggregate limitations on personal property exemptions. Specifically, a \$5,000.00 aggregate limitation is placed on exemptions claimed under CPLR Sec. 5205(a) and certain annuity contracts described in D & C Law Sec. 283.

In addition, new D & C Law Sec. 283 permits only a debtor who does not claim an exemption for real property under CPLR 5206 to claim as exempt no more than \$2,500.00 in cash or certain described cash substitutes, subject also to the \$5,000.00 aggregate limitation.

It should be noted that the new legislation grants a debtor a \$2,400.00 motor vehicle exemption, as compared to the former \$1,200.00 federal exemption. Also in regards to rights to receive benefits such as social security or pension benefits, and to rights stemming from recoveries or rewards or injuries to the debtor, the new state legislation appears to parallel the federal exemption list.

The most important changes appear, then, to be the increased motor vehicle exemption; the decreased "spillover" of unused homestead exemption; and the imposition of the \$5,000.00 aggregate limitation on certain personal property. Of course, counsel should study the legislation carefully for aspects of particular importance to particular clients, as well as for areas (including those explained above), which may require judicial interpretation.